

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Rosalie Gaisser and Frederick Gaisser,)	
)	
Plaintiffs,)	
)	Case No. 2:12-cv-03573-JS-ARL
vs.)	
)	
Zimmer, Inc., Zimmer Holdings, Inc., and)	
Zimmer Orthopaedic Surgical Products, Inc.,)	
)	
Defendants.)	
_____)	

**JOINT MOTION TO STAY PENDING
TRANSFER TO MULTIDISTRICT PROCEEDINGS**

The defendants, Zimmer, Inc., Zimmer Holdings, Inc., and Zimmer Surgical, Inc., f/k/a Zimmer Orthopaedic Surgical Products, Inc., and the plaintiffs, Rosalie Gaisser and Frederick Gaisser (collectively, "the Parties"), respectfully move this Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, to stay all proceedings, including but not limited to any deadline to answer or otherwise respond to the Complaint, the period for initial disclosures pursuant to Rule 26, and all other discovery and pretrial deadlines, pending transfer of this action to the Northern District of Illinois as part of multidistrict proceedings styled *In Re: Zimmer NexGen Knee Implant Products Liability Litigation*, MDL No. 2272 ("MDL-2272"). In support of this Motion, the Parties state:

1. The defendants were served with the Complaint on August 6, 2012. Responsive pleadings are currently due on August 27, 2012, which time has not expired.
2. This is one of multiple product liability cases in which the plaintiffs allege that the defendants designed, manufactured, and sold an allegedly defective *NexGen* branded artificial knee implant, which allegedly caused the plaintiffs to suffer damages.

3. On August 8, 2011, the JPML created MDL-2272 and began transferring cases involving *NexGen* branded artificial knee implants to the United States District Court for the Northern District of Illinois (the "Transferee Court") for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In Re: Zimmer NexGen Knee Implant Products Liability Litigation*, (J.P.M.L. 2011) [Doc. No. 110] attached as Exhibit A. Describing the primary purposes of consolidating these cases, the JPML stated that "[c]entralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings on *Daubert* and other pretrial issues, and conserve the resources of the parties, their counsel and the judiciary." *See id.* at 2.

4. The plaintiffs submitted this action to the JPML as a tag-along for transfer to the Transferee Court on July 24, 2012, and the JPML will likely transfer it conditionally. *See* Notice Of Potential Tag-Along Action [Doc. No. 760] attached as Ex. B. The Parties expect transfer of this case to be completed promptly.

5. A stay of all proceedings in this Court pending transfer is appropriate because such a stay will promote judicial economy and consistency. Indeed, the Transferee Court is expected to decide multiple pre-trial issues likely to arise in the cases transferred to MDL-2272.

6. A stay in this Court pending transfer to the MDL-2272 will not prejudice any party.

WHEREFORE, the defendants and the plaintiffs respectfully request that this Court enter an order staying all proceedings in this Court, including but not limited to any deadline for an answer or other response to the Complaint, the period for initial disclosures pursuant to Rule 26, and other discovery and pretrial deadlines pending transfer of this case to MDL-2272, and that the Court grant all other appropriate relief.

Dated: August 27, 2012

Respectfully submitted,

/s/ Michael A. London

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Holdings, Inc., and Zimmer Surgical, Inc., f/k/a
Zimmer Orthopaedic Surgical, Inc.

*This action is hereby stayed retroactive to the
date of this application (August 27, 2012) pending the parties'
request to transfer the case to the MDL court.*

